

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division**

FORD MOTOR COMPANY,)
)
Plaintiff,)
)
)
)
v.) Civil Action No. 3:12-cv-839
)
)
NATIONAL INDEMNITY COMPANY,)
)
Defendant.)
)

NOTICE OF WITHDRAWAL

PLEASE TAKE NOTICE that for the reasons set forth below, Ford Motor Company “Ford” hereby withdraws its Reply in Further Support of its Motion to Compel Unredacted Copies of Certain Documents (Docket#195) (“Ford’s Reply”). Ford reaffirms and stands on the argument asserted in its Memorandum in Support of its motion (Docket #151).

- 1) As is well known to the Court, NICO has been late in producing documents responsive to the Court’s January 30, 2013 discovery order. While attempting to cure its lack of compliance, NICO has made at least 18 supplemental production since April 24. Some of these productions contain alternative versions of previously produced documents with the same Bates numbers.

- 2) Ford has been seriously prejudiced by NICO’s discovery violations, and considerable time and effort has been expended while trying to keep track of NICO’s numerous supplemental, late productions. It appears that one of NICO’s supplemental

productions, which was sent to Ford as a single large PDF, contrary to of Fed. R. Civ. P. 34(b)(2)(E), which requires a party to produce electronically stored information as it is kept in the ordinary course of business, was not loaded into Ford's counsel's document database.

- 3) As a result of this omission, counsel reached several erroneous conclusions of fact, which were included in Ford's Reply. In the interest of expediency, Ford has decided to withdraw its Reply rather than seek leave to file an amended memorandum.
- 4) Ford offers its apologies to the Court and to counsel for any inconvenience.

Dated: July 17, 2013

Respectfully Submitted,

/s/

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CERTIFICATE OF SERVICE

I hereby certify that on the 17th day of July, 2013, I served the foregoing via the Court's CM/ECF system which will cause a Notice of Electronic Filing (NEF) to be sent to the following counsel of record for National Indemnity Company:

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